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February 11, 2002

The Honorable Jeffrey Runge, M.D.  
Administrator  
National Highway Traffic Safety Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

USG 3665

RE: Motor Vehicle Safety; Reimbursement Prior to Recall  
(66 Fed.Reg. 64078, December 11, 2001)  
Docket No. NHTSA 2001-11107 - 4

Dear Dr. Runge:

General Motors Corporation (GM) submits these comments in response to this notice of NHTSA's proposed rule on reimbursement for pre-notification remedies.

Not only does GM agree with the principle of reimbursement for pre-notification remedies not covered by the vehicle warranty, GM has reimbursed many customers for pre-notification remedies over the years. Most reimbursements are handled by GM dealers and this provides important advantages for its customers—they can bring their paperwork to someone in their community, discuss it with the dealer, and obtain a prompt response.

While many aspects of the proposed rules are reasonable on their face, the unintended effect of the rule is to require some manufacturers to devote resources to a different reimbursement process that will increase processing costs, delay responses to requests, eliminate face-to-face communications, and inconvenience customers. GM joins the Alliance of Automobile Manufacturers in asking NHTSA to adopt a final rule that prescribes the minimum number of requirements needed to assure that all manufacturers have programs to provide reimbursements to eligible customers while preserving flexibility so that manufacturers can choose how to best satisfy their customers.

#### **NHTSA SHOULD PERMIT CUSTOMERS TO OBTAIN REIMBURSEMENT FROM DEALERS**

Through its process for handling other types of customer requests for "goodwill" adjustments, GM can provide reasonable, fair, and convenient reimbursements to customers for pre-recall repairs. Our customers have a direct relationship with their dealers and GM's dealers handle most reimbursement requests. For our customer, this means he or she can bring the documents to someone local. The dealer and customer can discuss the request face-to-face and, if necessary, look at the vehicle. They can resolve many questions on the spot, rather than by exchanging letters or telephone calls.

Dealers have authority to approve many reimbursements. For others, they contact a GM area service manager. Most decisions are made within 72 hours. The dealer submits the claim through the same electronic system used for warranty claims and is generally paid within ten to fourteen days. The system is quick and efficient and GM's customers are satisfied. In 2001, GM dealers handled many thousands of reimbursement requests (of all types, not just related to recall) while

#### **Product Investigations**

Mail Code: 480-106-304 • 30500 Mound Road • Warren, MI 48090-9055  
Phone: (586) 986-8029 • Fax: (586) 947-2318  
GM TREAD Reimbursement Response[1]



GM's customer assistance centers (exclusive of Saturn) received complaints about dealer handling of reimbursements involving only 0.13% of the requests.

For pre-recall reimbursements, GM asks for the repair order describing the repair and parts used, proof of payment, and proof of ownership of the vehicle at the time the repair was made. GM has not restricted reimbursement based on a fixed amount of time between the repair and recall, as long as the repair involves the recall condition.

NHTSA's proposal appears to eliminate dealer handling of reimbursements. It does so directly by omitting any reference to dealers. It does so indirectly through its requirements for written applications, written responses, and deadlines for responses. It would be costly and difficult for a manufacturer to assure compliance with these requirements by creating and maintaining a system for tracking the receipt of claims and sending of responses by its thousands of dealers.

Unless NHTSA authorizes dealers to process claims and reduces the administrative burdens of the rule, it will eliminate the method of obtaining reimbursement chosen by most of GM's customers. It will also increase the cost and complexity of handling claims directly (as GM does in some cases and some manufacturers do in all cases).

#### **NHTSA CAN ACCOMPLISH THE ACT'S OBJECTIVES WITH FEWER REQUIREMENTS**

NHTSA can meet the objectives of Congress and provide reasonable reimbursement for consumers with a less extensive set of requirements. NHTSA itself notes that most (in 2000, 94 percent) of recalls occurred before the expiration of three years, the most common warranty period, that many recalls are announced before manufacturers have received complaints from owners, and that most manufacturers already provide reimbursement for pre-recall repairs. 66 FR at 64084.

NHTSA should only adopt a simple rule that (1) defines a *reasonable time*, (2) requires reimbursement for repairs made within that period, and (3) requires manufacturers to inform, by reasonable means, customers who are likely to have potential reimbursement claims about how to proceed. Unless there is data that shows there is a real problem to be addressed, NHTSA should not attempt to regulate the amount of reimbursement, documentation requirements, whether the customer can obtain reimbursement through a dealer, cut-off dates, deadlines for responding to claims, or the details of notification. As the Alliance recommends, the wording of the notification should be left to the manufacturer, subject to NHTSA's review.

If there are manufacturers who do not provide any reimbursement or manufacturers whose policies and practices are unreasonably restrictive, NHTSA can address those concerns when it reviews the reimbursement plans that they submit. NHTSA could also permit manufacturers to submit their reimbursement plans in advance and then to include information about approved plans in owner's manuals or warranty documents they provide to their customers. This would eliminate the need for NHTSA to review plans for every recall. Recall owner letters could be simpler and refer customers to their owner's manuals or warranty documents. Congress gave NHTSA discretion to decide if regulation was needed and authorized only *reasonable conditions*. NHTSA does not have to increase the burden on manufacturers who already have reasonable policies in place or inconvenience the customers of those manufacturers. There is no benefit to customers from increased administrative costs and processing time.

Letter to Dr. Runge

RE: Motor Vehicle Safety; Reimbursement Prior to Recall (66 Fed.Reg. 64078, December 11, 2001)

Docket No. NHTSA 2001-11107

February 11, 2002

Page 3

Although disputes about reimbursement appear to be few and far between, GM and other vehicle manufacturers have toll-free numbers and customer assistance personnel whose job is to resolve those kinds of disputes. In the preamble, NHTSA indicates that it does not want to become involved in resolving reimbursement issues between customers and manufacturers because of limits on its resources. But adopting all of the detailed requirements of the proposal invites disputes about them and questions of interpretation that will be directed to NHTSA. The best way for NHTSA to avoid becoming unnecessarily involved in minutiae in the future is to avoid dealing with it now.

#### **THE STANDARD FOR A *REASONABLE TIME* SHOULD BE EASY TO DETERMINE AND EXPLAIN**

Congress directed that there be a plan for reimbursement for *the cost of a remedy within a reasonable time in advance of the manufacturer's notification under subsection (b) or (c) of section 30118*, 49 U.S.C. §30120(d). GM agrees that there should be a *bright-line rule* for determining a *reasonable time* consistent with the direction of Congress that the manufacturer's notification is the key event. The basic definition should be one year before the date of the manufacturer's notification to NHTSA pursuant to §573.5. If vehicles with the safety defect or non-compliance were sold less than one year before that date, then the *reasonable time* would begin on the date of sale to the customer.

Proposed §573.13(c)(1) should state:

The beginning date shall be no later than one year before the date of the manufacturer's notification to NHTSA pursuant to §573.5 or, if later, the date of sale of the vehicle or equipment subject to the recall.

#### **A REIMBURSEMENT PLAN AND NOTIFICATION IS UNNECESSARY FOR MANY RECALLS**

There are several types of recalls where it is extremely unlikely or impossible that a customer will have incurred costs for a related repair before the recall notification letters are sent:

- Label errors—Customers will not have paid for the replacement of FMVSS 208 sun visor air bag warning labels that are smaller in size than specified or FMVSS 110 tire pressure information labels with incorrect tire designations.
- Non-compliances that can only be detected with measuring devices or disassembly of the vehicle—Customers will not have paid for the replacement of sunvisor center supports with radii less than permitted by FMVSS 201. Customers will not have paid for the replacement of console latches that do not withstand the vertical acceleration requirement in FMVSS 201. Customers will not have paid for the repair of inadequate body hinge pillar welds that might affect performance in a crash, but have no other effects.
- Safety defects or non-compliances that have no effect other than on occupant protection in a crash—Customers will not have paid for relocation of a fuel line to prevent it from being damaged in an FMVSS 301 front barrier test. Customers will not have paid for replacement of a driver's air bag module that may deploy abnormally and aggravate the driver's injuries.

For these types of recalls, there is no reason to complicate the owner letter or the manufacturer's recall plan with information about reimbursement. If in the §573.5 notice, a manufacturer provides

Letter to Dr. Runge

RE: Motor Vehicle Safety; Reimbursement Prior to Recall (66 Fed.Reg. 64078, December 11, 2001)

Docket No. NHTSA 2001-11107

February 11, 2002

Page 4

a satisfactory explanation why a reimbursement notice to owners is not needed in that recall, then no reimbursement notice should be required. Requiring that an owner letter about a label error include three lengthy sentences about reimbursement exposes the NHTSA to ridicule and detracts from its safety mission and the purpose of owner notification.

#### **REIMBURSEMENT FOR NON-IDENTICAL REPAIRS SHOULD BE LIMITED**

Proposed §573.13(d)(2) adopts reasonable limits on reimbursement for non-identical repairs. At page 64081, however, NHTSA states:

Additionally, the reimbursement program could not preclude a vehicle owner from obtaining both the recall remedy free of charge and reimbursement for past expenses, where otherwise allowed. For example, assume that an owner replaced an item of original equipment with the same part. If the recall remedy is to install a new part made of a material with better properties than the original part, the owner would be entitled to the free recall remedy and to be reimbursed for the cost of the pre-recall repair.

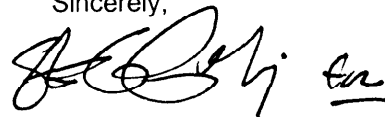
If the pre-recall repair in this example is made because the original equipment part *failed*, then GM agrees that reimbursement and the remedy are appropriate. But for the situation where the original equipment part did not fail, reimbursement can be excluded because the remedy did not address the defect or noncompliance and was not reasonably necessary to correct the defect or noncompliance.

#### **LEAD TIME**

The proposed rule will require tracking information about the receipt of customer requests and the disposition. It will also require getting people in place to process claims and modifying existing procedures. Unless major changes are made to the rule, GM estimates it will require six months to make the required preparations. GM requests the rule be made effective no earlier than six months after publication.

Thank you for your consideration of these comments and those of the Alliance. Please contact me if there are questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank C. Sonye, Jr.", with a stylized flourish at the end.

Frank C. Sonye, Jr.  
Director  
Product Investigations